

AN ACT

relating to the dispensing of aesthetic pharmaceuticals by physicians and therapeutic optometrists; imposing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

Sec. 116.001. DEFINITIONS. In this chapter:

(1) "Aesthetic pharmaceutical" means:

(A) a drug listed in the aesthetic pharmaceutical group under Section 116.005; or

(B) a drug that:

(i) is not a controlled substance;

(ii) requires a prescription for dispensation;

(iii) has been listed with the federal Food and Drug Administration; and

(iv) is prescribed for the enhancement of an individual's appearance.

(2) "Physician" means a person licensed to practice medicine under Subtitle B.

(3) "Therapeutic optometrist" means a person licensed to practice therapeutic optometry under Chapter 351.

Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED. (a) A

1 physician or therapeutic optometrist may dispense to the
2 physician's or therapeutic optometrist's patients an aesthetic
3 pharmaceutical in excess of the patient's immediate needs without
4 obtaining a license under Chapter 558. The physician or
5 therapeutic optometrist may charge a fee for dispensing the
6 pharmaceutical.

7 (b) A therapeutic optometrist may not dispense an aesthetic
8 pharmaceutical if that prescription does not fall within the scope
9 of the practice of therapeutic optometry, as defined by Section
10 351.002.

11 Sec. 116.003. NOTICE; LABELING; RECORDKEEPING.

12 (a) Before dispensing an aesthetic pharmaceutical to a patient, a
13 physician or therapeutic optometrist must inform the patient that
14 the prescription for the pharmaceutical may be filled at a
15 pharmacy, if available at a pharmacy, or dispensed in the
16 physician's or therapeutic optometrist's office.

17 (b) Each state and federal labeling and recordkeeping
18 requirement applicable to an aesthetic pharmaceutical must be
19 followed and documented. A record maintained under this section
20 must be accessible as provided under state and federal law.

21 Sec. 116.004. RULES; FEES. The Texas Medical Board and the
22 Texas State Board of Pharmacy shall jointly adopt rules for
23 physicians, and the Texas Optometry Board and the Texas State Board
24 of Pharmacy shall jointly adopt rules for therapeutic optometrists,
25 to govern the packaging, labeling, and dispensing of aesthetic
26 pharmaceuticals under this chapter. The Texas Medical Board and
27 the Texas Optometry Board shall adopt reasonable fees as necessary

1 to implement this chapter. A fee adopted under this section may not
2 exceed a fee adopted under Section 554.006 for authorizing a
3 pharmacist to dispense pharmaceuticals.

4 Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The
5 aesthetic pharmaceutical group consists of:

- 6 (1) bimatoprost;
- 7 (2) hydroquinone; and
- 8 (3) tretinoin.

9 SECTION 2. Subsection (f), Section 157.002, Occupations
10 Code, is amended to read as follows:

11 (f) Subsections (b) and (c) do not authorize a physician or
12 a person acting under the supervision of a physician to keep a
13 pharmacy, advertised or otherwise, for the retail sale of dangerous
14 drugs, other than as authorized under Chapter 116 and Section
15 158.003, without complying with the applicable laws relating to the
16 dangerous drugs.

17 SECTION 3. Subsection (d), Section 563.051, Occupations
18 Code, is amended to read as follows:

19 (d) This section does not authorize a physician or a person
20 acting under the supervision of a physician to keep a pharmacy,
21 advertised or otherwise, for the retail sale of dangerous drugs,
22 other than as authorized under Chapter 116 and Section 158.003,
23 without complying with the applicable laws relating to the
24 dangerous drugs.

25 SECTION 4. The Texas Medical Board, Texas Optometry Board,
26 and Texas State Board of Pharmacy shall adopt rules for the
27 implementation of Chapter 116, Occupations Code, as added by this

1 Act, not later than March 1, 2014.

2 SECTION 5. (a) Except as provided by Subsection (b) of
3 this section, this Act takes effect immediately if it receives a
4 vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2013.

8 (b) Sections 116.002 and 116.003, Occupations Code, as
9 added by this Act, take effect March 1, 2014.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 227 passed the Senate on March 12, 2013, by the following vote: Yeas 29, Nays 2; and that the Senate concurred in House amendment on May 25, 2013, by the following vote: Yeas 28, Nays 2.

Secretary of the Senate

I hereby certify that S.B. No. 227 passed the House, with amendment, on May 21, 2013, by the following vote: Yeas 127, Nays 19, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor